

Message Text

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ACTION COA-01

INFO OCT-01 ARA-06 ISO-00 TRSE-00 SCS-03 L-02 EB-07 SCA-01

H-01 INR-07 DLOS-03 PRS-01 CG-00 DOTE-00 SSO-00

NSCE-00 USIE-00 CIAE-00 DODE-00 PM-03 NSAE-00 NSC-05

PA-01 RSC-01 SP-02 SS-15 INRE-00 /060 W

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O R 291745Z JAN 75

FM AMCONSUL GUAYAQUIL

TO SECSTATE WASHDC IMMEDIATE 3632

INFO AMEMBASSY QUITO IMMEDIATE

AMEMBASSY LIMA

AMEMBASSY MEXICO

C O N F I D E N T I A L GUAYAQUIL 159

E. O. 11652: GDS

TAGS: EFIS, EC

SUBJ: SEIZURE OF US TUNA VESSELS

REF: A. GUAYAQUIL 158; B. GUAYAQUIL 146

1. MORNING OF JAN. 29 CONGEN DISCUSSED TUNA BOAT SEIZURES WITH VICENTE YULEE, WHO HAS BEEN PREVIOUSLY DESCRIBED AS VAN CAMP REP IN THIS MATTER. VAN CAMP HAS NOW APPARENTLY BOWED OUT OF PROBLEM AND YULEE ACTING AS AGENT FOR ZAPATA OCEAN RESEARCH CO., AND ITS PARENT COMPANY, ZAPATA OIL COMPANY.

2. YULEE STATES THAT FINES REPORTED GUAYAQUIL PRESS (REF A) REPRESENT ACCURATE PRESENTATION OF OFFICIAL DECISION MADE BY DIRECTORATE GENERAL OF FISHERIES IN CLOSE CONSULTATION WITH OFFICIALS IN QUITO. TOTAL GREATER THAN THAT REPORTED REF B BECAUSE FINAL CHARGES LEVIED AGAINST BOATS INCLUDE PURCHASE OF MATRICULA AND FISHING LICENSE. BREAKDOWN OF CHARGES AGAINST EACH BOAT FOLLOWS (ALL AMOUNTS GIVEN IN SUCRES; EXCHANGE RATE ABOUT 25 TO \$1. FINE IN EACH CASE IS DOUBLE COST OF LICENSE.)

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A. CALYPSO

LICENSE - 741,000
MATRICULA - 17,500
FINE - 1,240,000

TOTAL - 2,240,500

B. JACQUELINE A

LICENSE - 589,500
MATRICULA - 17,500
FINE - 1,190,000

TOTAL - 1,797,000

C. MARY ELIZABETH

LICENSE - 691,500
MATRICULA - 17,500
FINE - 1,383,000

TOTAL - 2,092,000

D. CITY OF LISBON

LICENSE - 768,000
MATRICULA - 17,500
FINE - 1,536,000

FINE TO BOATOWNER BECAUSE BOAT IS REPEAT OFFENDER (4 X LICENSE FEE
- 3,072,000

TOTAL - 5,393,500

3. DECISION HANDED DOWN BY DIRECTORATE OF FISHERIES ALSO STATES
THAT ALL CATCH FOUND ON BOARD BOATS AT TIME OF CAPTURE WILL BE
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CONFISCATED. IT HAS NOT YET BEEN DECIDED WHERE OR WHEN OFF-
LOADING WILL TAKE PLACE. YULEE EXPECTS THAT JACQUELINE A AND CITY
OF LISBON WILL BE OFF-LOADED IN MANTA; MARY ELIZABETH AND CALYPSO
IN SALINAS. ECUADOREAN GOVERNMENT WILL ORDER OWNERS OF FREEZING
FACILITIES TO RECEIVE CATCH. NONE EXPECTED TO DO SO VOLUNTARILY
BECAUSE OF SCARCITY STORAGE SPACE.

4. BOAT CAPTAINS RECEIVED DECISION AT ABOUT 2100 JAN 28. THEY

HAVE UNTIL ABOUT 2100 JAN. 31 TO APPEAL DECISION. CAPTAIN OF JACQUELINE A TOLD CONSUL KELLER THAT HE WANTED TO APPEAL DECISION TO CONFISCATE HIS CATCH BECAUSE 400 TONS IN SEALED STORAGE SPACE CAUGHT LAST YEAR BEFORE HE BECAME MASTER.

5. YULEE PLANS CALL MR. ART SOUZA, VICE PRESIDENT, ZAPATA OIL CO., SAN DIEGO, AT 1300 JAN. 29 TO REPORT ON MOST RECENT DEVELOPMENTS. YULEE BELIEVES THAT THERE ARE THREE COMPONENTS OF DIRECTORATE GENERAL OF FISHERIES DECISION THAT MIGHT BE APPEALED. ALTHOUGH BOAT CAPTAINS WILL HAVE TO SIGN REQUEST FOR APPEAL, DECISION TO TAKE SUCH ACTION WILL APPARENTLY HAVE TO BE MADE BY ZAPATA OIL.

6 ACCORDING TO YULEE, THREE AREAS THAT MIGHT BE APPEALED ARE (A) DECISION THAT BOATS MUST PURCHASE LICENSES AND MATRICULAS IN ADDITION TO PAYING FINES; (B) DECISION THAT BOAT OWNER OF CITY OF LISBON MUST PAY ADDITIONAL FINE EQUIVALENT TO FOUR TIMES LICENSE COST BECAUSE BOAT IS REPEAT OFFENDER; AND (C) DECISION TO CONFISCATE CATCH.

7. YULEE BELIEVES THERE LITTLE CHANCE THAT APPEAL AGAINST PURCHASE OF LICENSE AND MATRICULA WILL BE UPHELD AND THAT BOAT OWNERS WOULD HAVE LITTLE INTEREST IN MAKING SUCH APPEAL BECAUSE THEY EXPECT REIMBURSEMENT UNDER TERMS OF FPA. HE STATES, HOWEVER, THAT IT APPEARS THAT APPEAL OF DECISION TO APPLY REPEATER FINE AGAINST CITY OF LISBON OWNER MIGHT HAVE GOOD CHANCE OF BEING SUSTAINED. HE BASES THIS OPINION ON FACT THAT WHEN CITY OF LISBON CAPTURED IN 1972 IT OWNED BY GANN ENTERPRISES AND BOAT DID NOT BECOME PROPERTY OF ZAPATA UNTIL 1974. BECAUSE THIS FIRST CAPTURE UNDER ZAPATA OWNERSHIP, YULEE ARGUES THAT PRESENT OWNER CAN MAINTAIN THAT HE SHOULD NOT BE PENALIZED FOR PREVIOUS SEIZURE.

8. DECISION TO CONFISCATE CATCH MAY BE APPEALED ON GROUNDS THAT SOME OF CATCH FOUND ON BOARD BOATS AT TIME OF SEIZURE WAS CAPTURED
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OUTSIDE ECUADOREAN-CLAIMED TERRITORIAL WATERS. GROUNDWORK FOR SUCH AN APPEAL LAID ON JAN. 27 IN GUAYAQUIL AT YULEE'S INSISTENCE WHEN THREE CAPTAINS MADE OFFICIAL STATEMENTS TO DIRECTOR GENERAL OF FISHERIES THAT SOME OR ALL OF CATCH FOUND ON THEIR BOATS WHEN SEIZED HAD NOT BEEN CAUGHT WITHIN 200 MILES OF ECUADOREAN COAST (PARAS 4 AND 7, REF B). YULEE IS NOT OPTIMISTIC THAT APPEAL ON THESE GROUNDS WILL BE SUSTAINED BECAUSE ECUADOREAN LAW STATES WITHOUT QUALIFICATION THAT CATCH FOUND ON BOARD AT TIME OF SEIZURE WILL BE CONFISCATED.

9. YULEE CLAIMS THAT ECUADOREAN AUTHORITIES HAVE ABANDONED ATTEMPT TO HAVE CATCH PURCHASED BY BOAT OWNERS BECAUSE VAN CAMP HAS APPARENTLY DECIDED THAT IT WANTS NO INVOLVEMENT WITH THIS MATTER. WITH VAN CAMP WITHDRAWAL, ALL TRANSACTIONS CONCERNING RELEASE OF BOATS WILL HAVE TO BE HANDLED BY ZAPATA WHICH HAS NO LEGAL REP IN

ECUADORE QUALIFIED UNDER LAW TO PURCHASE CATCH AND FULFILL TECHNICAL REQUIREMENTS OF RE-EXPORTING FISH FROM THIS COUNTRY OR MAKE PROVISION FOR DOMESTIC SALE OF AMOUNT EQUIVALENT TO 20 PER CENT OF SEIZED CATCH. VAN CAMP COULD HAVE DONE THIS THROUGH MANTA SUBSIDIARY, INEPACA. ZAPATA CAN NOT.

10. YULEE FORESEES POSSIBLE FUTURE PROBLEM WHEN JACQUELINE A IS UNLOADED BECAUSE BOAT HAS ON BOARD 478 TONS OF FISH WHILE NRT IS 393. HE FEARS THAT ECUADOREAN AUTHORITIES MAY NOT FULLY UNDERSTAND HOW NRT IS DETERMINED, MAY QUESTION ACCURACY OF US NRT CERTIFICATION, AND THEREBY FURTHER COMPLICATE ALREADY DIFFICULT SITUATION. DEWITT

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